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In re Application of
DAHLKE *et al*
U.S. Application No.: 10/568,115
PCT No.: PCT/EP2004/008116
Int. Filing Date: 20 July 2004
Priority Date: 13 August 2003
Attorney Docket No.: 2003P09461WOUS
For: HEAT SHIELD ARRANGEMENT FOR A
COMPONENT GUIDING A HOT GAS
IN PARTICULAR FOR A
COMBUSTION CHAMBER IN A GAS
TURBINE

DECISION

This petition is in response to the papers filed on 14 March 2008 which are treated as a petition under 37 CFR 1.8(b). No fee is required.

BACKGROUND

On 24 July 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 14 August 2006, applicants purportedly filed a response containing an executed declaration via facsimile. However, these papers are not located in the file.

On 10 December 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909), indicating that the application went abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed 24 July 2006.

On 15 February 2008, applicants filed via facsimile several papers.

On 14 March 2008, applicants filed the subject petition to withdraw the holding of abandonment.

DISCUSSION

In the petition filed 14 March 2008, applicants' claim to have responded to the

Form PCT/DO/EO/905 via facsimile transmission on 14 August 2006. However, this response is not present in the file and the surcharge fee has not been paid. As such, the subject application went abandoned for failure to respond to an office action.

37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

- (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
 - (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
 - (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
 - (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit 's report confirming transmission may be used to support this statement.

Applicants provided a copy of the documents purportedly filed 14 August 2006. Applicants also included a declaration by Ann Hickey and a copy of applicants' "Communication Result Report" received from the USPTO.

A review of the evidence shows that the "Communication Result Report" is partially cut off and does not indicate a receiving facsimile telephone number on it.

As such, applicants must provide additional evidence that the documents were sent to the facsimile number in question (571-270-9880). Such evidence may include any relevant evidence such as electronic confirmation reports, log books, billing records, etc.

CONCLUSION

For the reason noted above, applicants' petition under 37 CFR 1.8(b) is hereby **DISMISSED** without prejudice.

The application remains abandoned.

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Applicants have **TWO (2) MONTHS** to respond to the decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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